IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.526 OF 2005
IN
SUMMARY SUIT NO.560 OF 2004

Chairyath Kurriyakku Paul — Plaintiff
versus
V.Kandaswamy — Defendant

Mr.R.S.Datar for plaintiff.

CORAM : S.C.DHARMADHIKARI, J.
DATE : 13th June 2006

PC :

1. Shri Datar appearing for the plaintiff in support states that a copy of this Chamber Summons was duly served by him on the defendants advocate Shri Vishwajeet Kapse. He undertakes to file an affidavit proving service of this Chamber Summons within a period of one week from today.

2. The name of Shri Kapse is appearing on board. However, he is absent when the matter is called out.

3. Perused the Chamber Summons and the affidavit in support. All that the plaintiff seeks to

incorporate in the plaint in the summary suit is that the security which was offered for repayment of loan, does not survive because a part of the immovable property is disposed of. Therefore, the plaintiff is giving up the security. He also seeks to incorporate the averments pertaining to the admission of liability and forwarding of a cheque which was dishonoured.

4. These averments would not prejudice the defendant in any manner. In my view, it would be open for the defendant, despite the amended pleas being allowed to be incorporated, to contend that the suit is not maintainable as a summary suit and such plea if raised, shall be dealt with on its own merits and in accordance with law without being influenced by the order passed in this Chamber Summons.

5. Chamber Summons is made absolute in terms of prayer clause (a). Amendment to be carried out within two weeks from today. Copy of amended plaint to be served four weeks thereafter. Liberty to take out a fresh Summons for Judgement after the amended plaint is served. No order as to costs.

(S.C.DHARMADHIKARI, J.)